

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE
SIXTH JUDICIAL DISTRICT AT KNOXVILLE

ENTERED

STATE OF TENNESSEE,

MAY 03 2007

Plaintiff,

HOWARD G. HOGAN

1040-040

v.

NO. 169384-3

PAYTON ABERNATHY, individually and
d/b/a PEYTON ENTERPRISES, d/b/a
www.MAKEMONEYSTUFFING.COM,
d/b/a GLOBAL MAIL MARKETING,
d/b/a AMERICAN MAIL MARKETING,
d/b/a PC ENTERPRISES, d/b/a FREEDOM
MARKETING, and KEVIN SPARKS,
individually and in a representative capacity
of all other Defendants,

Defendants.

**ORDER OF TEMPORARY INJUNCTION, APPOINTMENT OF RECEIVER,
DEFENDANT'S POSTING OF CASH BOND, ALTERNATIVELY TEMPORARY
FREEZE OF BUSINESS ACCOUNTS ASSOCIATED WITH
PEYTON ENTERPRISES**

This cause came to be heard on April 25, 2007, on Plaintiff, State of Tennessee's Motion for Temporary Injunction, Appointment of a Receiver, Temporary Freeze of Assets and Revocation of License in the Chancery Court, Part III, for Knox County, before the Honorable Michael W. Moyers, Chancellor of said Court. The Court considered the State's motions, supporting exhibits, legal brief and live testimony. "Defendant," as used herein, means Payton Abernathy and his businesses, Peyton Enterprises, makemoneystuffing.com, Global Mail Marketing, American Mail Marketing, PC Enterprises and Freedom Marketing.

The Court finds as a matter of fact, based on the affidavits and live testimony, that there is a substantial possibility or likelihood of the state prevailing on the merits of the action based on Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101, *et seq.* The Court is given broad discretion, to fashion a temporary remedy in Tenn. Code Ann. § 47-18-108, paragraphs (a) and (b).

The Court finds that there is sufficient evidence to suggest that the Defendant Payton Abernathy's envelope stuffing business may constitute violations of the Tennessee Consumer Protection Act and therefore, **ORDERS** the following temporary remedies:

First, the Defendant upon entry of this Order, shall post an \$8,000 cash bond with the State in escrow to be used as security for restitution if such is ultimately ordered by this Court. (Said \$8,000 shall be paid, by certified check, to the State of Tennessee, Attorney General; the check shall, upon entry of this Order, be mailed to the undersigned counsel for the State of Tennessee.)

IT IS SO ORDERED.

If the Defendant is unable to post this cash bond with the State or chooses not to post said bond, then the primary request of the State of Tennessee is **GRANTED** and Defendant's assets in business accounts that are associated with Peyton Enterprises, makemoneystuffing.com, Global Mail Marketing, American Mail Marketing, PC Enterprises and Freedom Marketing shall be frozen and held by the state pending a final outcome of this case. (In this event, upon entry of this Order which freezes assets in Defendant's business accounts, the Defendant shall inform the State of Tennessee's counsel and Receiver of the location of the accounts, the account numbers, the amounts in each account, the names of entities on those accounts, the addresses of the

financial institution(s), the addresses of the entities and persons with authority to withdraw, transfer money or in any way affect the money in those accounts. The Defendant's account information shall be sent by facsimile, to the undersigned counsel for the State no later than the date of entry of this Order, if the described cash bond is not posted. A financial institution's receipt of a copy of this Order shall constitute notice to that financial institution that Defendant's business accounts are frozen. The State of Tennessee, through the Attorney General's Office shall furnish a copy of this Order, upon its entry, to the business account holders to be identified by Defendants. The State shall, by copy of this Order, notify the business account holders of the temporary freeze ordered.)

IT IS SO ORDERED.

The Defendant is temporarily enjoined from continuing the business practice described in the Plaintiff's Complaint until final resolution of this case.

IT IS SO ORDERED.

The Court finds that appointment of a Receiver is necessary to preserve, to take control of and to maintain business records and assets. The Court hereby appoints Gerald Gulley, a Knoxville attorney, without any objection to Mr. Gulley's acting as Receiver from the Defendant or the State of Tennessee.

IT IS SO ORDERED.

The Court strongly encourages the State to prepare this case for prosecution as quickly as possible so as not to freeze the Defendant's assets longer than possible if ultimately the State is unable to prove its case.

On the basis of uncontradicted affidavits and live testimony, a case has been made out by the State. With regard to Payton Abernathy's business packages and funds sent by consumers to whom the Defendant has not yet sent the business packages, both are to be frozen in place. The Defendant is to keep the business packages and is not to disburse the funds.

IT IS SO ORDERED.

The Court finds it appropriate for the Defendant to notify the consumers who have sent money but not received the Defendant's business package of the Defendant's current status. Should the Defendant write a letter to the above described consumers, the language of the letter must be approved by the State's counsel before the Defendant's mailing of the letter. A copy of this Order should be included with the letter sent by the Defendant.

IT IS SO ORDERED.

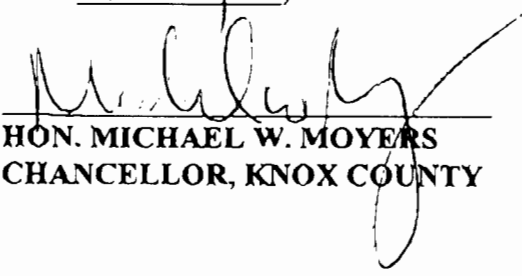
The State shall contact Gerald Gulley to inform him of his appointment as Receiver and to inform him of his duties.

IT IS SO ORDERED.

Further, the Defendant is directed by the Court not to destroy, remove, alter any current records of Defendant's business such that it would make discovery difficult.

IT IS SO ORDERED

ENTERED THIS 3rd DAY OF May, 2007.


HON. MICHAEL W. MOYERS
CHANCELLOR, KNOX COUNTY

APPROVED FOR ENTRY:

STATE OF TENNESSEE



MEREDITH DEVAULT, B.P.R. 9157

Senior Counsel

Office of the Attorney General & Reporter

425 Fifth Avenue North

Nashville, TN 37243

Phone: (615) 532 - 2578

Facsimile: (615) 532-2910

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been mailed via UPS Overnight, pre-paid, to The Honorable Michael W. Moyers, Chancellor, City-County Building, 400 Main Street, Ste. 125, Knoxville, TN 37902, Gerald Lee Gulley, Jr., Esq., Gulley & Oldham, 706 Walnut St., Ste. 302, Knoxville, TN 37901 and to Danny Garland, Esq., 530 S. Gay Street, Suite 601, Knoxville, TN 37902, Attorney for Payton Abernathy, on this the 1 day of May, 2007.

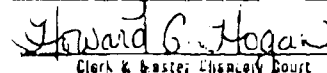
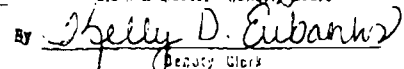


MEREDITH DEVAULT

Senior Counsel

CERTIFICATE

L. Howard G. Hogan hereby certify that I have mailed a true and accurate copy of the foregoing Order to all parties or their attorneys of record who have not appeared same, by placing same in the U.S. Mail, postage prepaid, this 7th day of May, 2007.

all
above
Clerk & Master Chancery CourtBy 
Deputy Clerk